

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.20669 of 2016

and Crl.M.P.Nos.9614 and 9615 of 2016

1.Senthil @ Gundu Senthil @ Senthilkumar
2.S.Sumathy

Petitioners/
Accused Nos.1 & 7

vs.

1.State rep by
Inspector of Police
Madathukulam Police Station
Tiruppur District

2.Devi

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records in PRC No.1/2014 on the file of the Judicial Magistrate No.II, Udumalpet and quash the same.

For petitioners Mr.S.Sugendran
For R1 Mr. C. Emalias
Addl. Public Prosecutor
For R2 Mr.S.Jayakumar

ORDER

This petition has been filed to call for the records in PRC No.1/2014 on the file of the Judicial Magistrate No.II, Udumalpet and quash the same.

2. Heard the learned counsel for the petitioners, learned Additional Public Prosecutor appearing for the State and the learned counsel for the de facto complainant.

3. Today, Mr.M.Vivekanandan, Deputy Superintendent of Police, Udumalai, Tiruppur District and Mr.T.Saravanan, Inspector of Police, Madathukulam Police Station, Tiruppur District are present before this Court.

4. On 27.09.2016, this Court passed the following order:

"This petition has been filed, praying to call for the records in P.R.C.No.1 of 2014 on the file of the Judicial Magistrate No.II, Udumalpet and quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>
2. On the complaint lodged by one Tmt.Devi, alleging that her

husband has been abducted and some persons were demanding ransom over phone and threatened her that if she fails to comply the demand or informs the police, they would kill her husband, a case in Crime No.926 of 2011 was registered by the first respondent police and after the completion of the investigation, a final report was filed before the Judicial Magistrate No.II, Udumalpet, which was taken on file vide PRC No.1 of 2014 for the offences punishable under Sections 147, 365, 364(A) IPC r/w 511 IPC, 364(A) r/w 120(b) IPC against seven accused, including the petitioners herein, who were arrayed as A1 and A7 respectively.

3. Learned Additional Public Prosecutor submitted that the case has been committed to the Court of Sessions, Tiruppur, while so, the defacto complainant Devi and the petitioners, Senthil and Sumathi have entered into compromise and based on which, the petitioners seek to quash the prosecution against them.

4. An affidavit duly sworn to by Devi, has been filed before this Court, wherein, she has stated that her husband was rescued by the petitioners and on their advise only, she preferred the complaint and that based on the confessional statements of the accused who were arrested, the petitioners who are no way connected with the offence, were implicated and that she and the petitioners have arrived at a compromise.

5. Today, the petitioners, viz., Senthil @ Gundu Senthil @ Senthilkumar (A1), Sumathy (A7), Devi (de facto complainant and her husband Sasikumar (victim) are present before this Court. They reported that they have arrived at a compromise. The de facto complainant has stated that Senthil @ Gundu Senthil @ Senthilkumar (A1) and Sumathy (A7) had no role to play in abducting her husband and therefore, she has no objection to quash the proceedings against the petitioners.

6. In "Narinder Singh and others versus State of Punjab and another" reported in "2014 CrI.L.J.2436, the Hon'ble Supreme Court has laid down the parameters for quashing the prosecution when the parties reported that they have arrived at the settlement, wherein, the Hon'ble Supreme Court has cautioned the High Courts while exercising the inherent power, to form an opinion in respect of two objectives, viz., i) to meet ends of justice and ii) to prevent abuse of the process of any Court and such power should not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dociety, etc. since such offences are not private in nature, but have a serious impact on society.

7. Keeping in mind the above parameters, on a reading of the final report in the instant case, this Court is of the opinion that the allegations made against the accused including petitioners herein, are indeed, serious in nature and have a considerable impact on the society since the accused persons including the petitioners, were alleged to have involved in abducting a person for illegal ransom. therefore, this Court is indeed reluctant to quash the

prosecution though the parties reported settlement.

8. At this juncture, Sasikumar, the victim himself, has made a passionate plea that Senthil @ Gundu Senthil @ Senthilkumar (A1) and Sumathy (A7), the petitioners herein, were not involved in the crime at all, but in fact, they had helped him when he was beaten in blue and abandoned him by the abductors at Peelamedu, Coimbatore District. This Court delved deep into the records and found that the name of either Senthil @ Gundu Senthil @ Senthilkumar (A1) or Sumathy (A7) was disclosed by the de facto complainant-Devi in her complaint. Mrs.Sumathy (A7) is, in fact, a practising lawyer in Coimbatore District. In the final report, the police had shown Mrs.Sumathi (A7) as an absconding accused which did arouse a suspicion in the mind of this Court on the veracity of the prosecution case itself. According to Sasikumar (victim), he was abducted by a gang of persons by name (1) Senthil @ Soda Senthil @ Senmthilkumar (2) Mounavel, (3) Raja @ Mathew and (4) Vijayakumar from his house and took him to Coimbatore and after beating him in blue, they abandoned him at Peelamedu, Coimbatore District, where he was found by Senthil @ Gundu Senthil @ Senthilkumar, the husband of Mrs.Sumathy (A7) while he was on the way to school to bring his daughter, and Senthil @ Gundu Senthil @ Senthilkumar had sympathy towards the victim-Sasikumar and admitted him at Vagai Hospital in Coimbatore, where he was given first aid and after he recouped, he went from the hospital on his own to his native place. The police arrested some of the accused and based on their confession statements, Mrs.Sumathy (A7), and her husband-Senthil @ Gundu Senthil @ Senthilkumar (A1) were implicated in the case. Mrs.Sumathy (A7) had only helped her husband to tackle the situation when her husband told her over phone that a person was found lying on the road with injuries and beyond that she had no role to play in the instant case. It is to be noted that the police have not collected any medical records from Vagai Hospital in Coimbatore. Fortunately, Senthil @ Gundu Senthil @ Senthilkumar (A1) and Mrs.Sumathy (A7) were not arrested while the other accused by name (1) Senthil @ Soda Senthil @ Senmthilkumar/A2 (2) Mounavel/A3, (3) Raja @ Mathew/A4 and (4) Vijayakumar/A5 were arrested and remanded to judicial custody.

9. It is also represented that one Balaji (A6) was also not involved in the crime and that he was the driver of Senthil @ Gundu Senthil @ Senthilkumar. There appears to be a ring of truth in the statements of Senthil @ Gundu Senthil @ Senthilkumar (A1) and his wife Mrs.Sumathy (A7). This is strongly supported by the victim-Sasikumar and his wife, the defacto complaint-Mrs.Devi.

10. In such circumstances, this Court is of the view that it will be in the interest of justice, if further investigation is ordered in exercise of the power under Section 482 Cr.P.C. Thus, this Court is inclined to pass the following: -

(i) Mr.T.Saravanan, Inspector of Police, Madathukulam Police Station, Tirupur District, is hereby directed to conduct further investigation in the case in Crime No.926 of 2011 on the aforesaid aspects.

(ii) The Superintendent of Police, Tirupur District, is hereby directed to personally monitor the further investigation being conducted by the Inspector of Police as directed above.

(iii) The further investigation shall be completed within a period of one month from the date of receipt of a copy of this order.

(iv) After completion of further investigation, the Inspector of Police shall file an appropriate supplementary report before the learned Principal Sessions Judge, Tirupur where the case is now pending for taking cognizance of offences on committal in PRC No.1 of 2014 and until then, the further proceedings in the case in PRC No.1 of 2014 shall be kept in abeyance.

(v) During further investigation, if it is found that Senthil @ Gundu Senthil @ Senthilkumar (A1), Mrs.Sumathy (A7) and Mr.Balaji (A6) were wrongly implicated in the case, it is needless to say that their names shall be deleted in the supplementary report and the concerned Public Prosecutor shall move an appropriate application before the Court below for deleting their names from the array of the accused. After filing the supplementary report by the Inspector of Police as directed above, the learned Sessions Judge shall proceed with the case in accordance with law.

Registry is directed to list this matter on 01.11.2016 at 02.15 p.m. for reporting compliance.

5. Pursuant to the order passed by this Court, further investigation was taken over by the Deputy Superintendent of Police, Udumalai, who was assisted by Mr.Saravanan, Inspector of Police.

6. After further investigation, the police have made ready a supplementary report deleting the names of Senthil [A1], Balaji [A6] and Sumathi [A7].

7. This Court places on record its appreciation to Mr.M.Vivekanandan, Deputy Superintendent of Police, Udumalai, Tiruppur District and Mr.T.Saravanan, Inspector of Police, Madathukulam Police Station, Tiruppur District, for the professional manner, in which, the further investigation has been carried out and concluded. Of course, it cannot be stated that the earlier investigation by the police is a mala fide one. The materials then available to the police did show the involvement of Senthil [A1], Balaji [A6] and Sumathi [A7]. The subsequent investigation has been carried out thoroughly, pursuant to the orders passed by this Court and the police have come to the subsequent conclusion that there are no materials to prosecute Senthil [A1], Balaji [A6] and Sumathi [A7].

8. The police are directed to file the supplementary report before the trial Court within four weeks from the date of receipt of a copy of this order and the trial Court shall proceed with the trial in accordance with law as against the other accused.

With the above direction, this petition is closed.
Consequently, connected miscellaneous petitions are closed.

gms

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gms

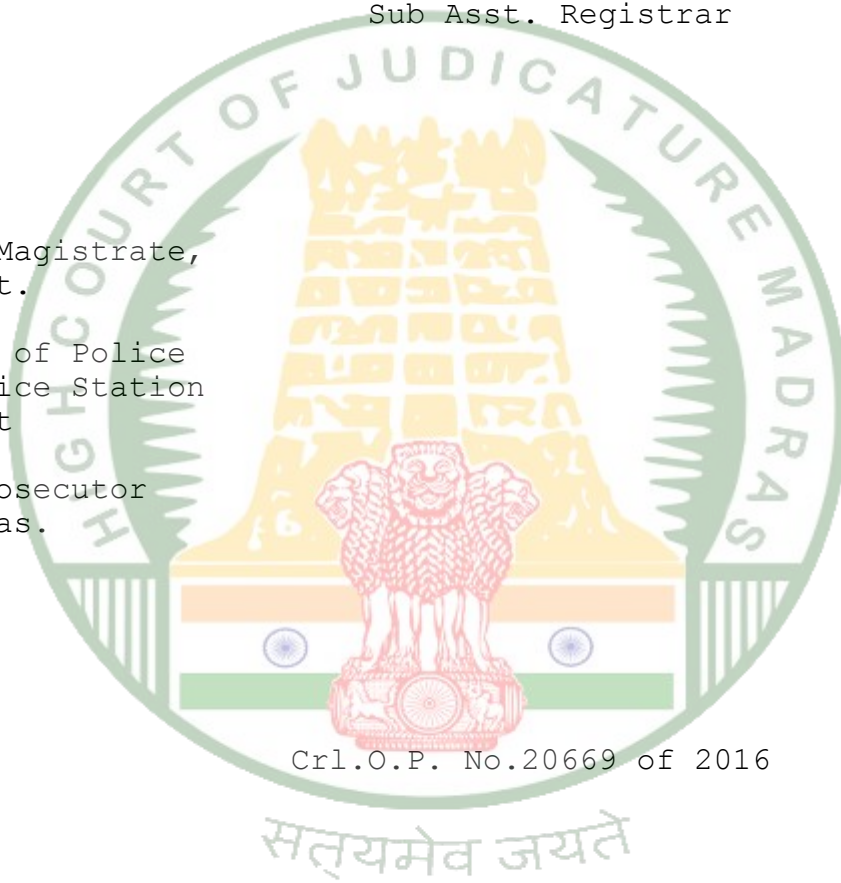
To

1 The Judicial Magistrate,
No.II, Ulundurpet.

2. The Inspector of Police
Madathukulam Police Station
Tiruppur District

3. The Public Prosecutor
High Court, Madras.

CO-UGI
ths : 28.12.2016



Cr1.O.P. No.20669 of 2016

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